

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THESE MATTERS OF THE APPEALS OF) APPEAL NOS. 07-A-2424,
BONNER COUNTY ASSESSOR from the decisions) 07-A-2425 AND 07-A-2426
of the Board of Equalization of Bonner County for tax) (GILLHAM PROPERTY)
year 2007.) FINAL DECISION
) AND ORDER

COMMERCIAL PROPERTY APPEALS

THESE MATTERS were heard on the written record created. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Bonner County Assessor Jerry Clemons and Commercial Appraiser Donna Gow submitted information for consideration. Respondents' (property owners') representative John Gillham submitted information. These appeals are taken from decisions of the Bonner County Board of Equalization (BOE) modifying the protests of valuation for taxing purposes of property described as Parcel Nos. RPS024500C008BA, RPS0131025015AA and RPS00000226065A.

The issue on appeal is the market values of three (3) commercial properties.

The decision of the Bonner County Board of Equalization is reversed.

FINDINGS OF FACT

Parcel No. RPS024500C008BA

The BOE land value is \$255,600, and the improvements' valuation is \$669,551, totaling \$925,151. Appellant-Assessor requests the land value remain at \$255,600, and the improvements' value be increased to \$728,610, totaling \$984,210.

This subject property is 0.519 acres located on Pine Street in Sandpoint, Idaho. Subject consists of three (3) separate, single story buildings. All are good quality construction and in average condition. The first building is located nearest to the street and is used as an alternative medicine office. It was built in 2003 and has 1,394 square feet. The second building is located

on the southwest portion of the property and consists of 2,288 square feet. It was built in 2005 and is used as an office. The last building consists of 2,360 square feet and is located on the southeast portion of subject property. It is used as retail and office suites.

Parcel No. RPS0131025015AA

The BOE assessed land value is \$153,990, and the improvements' valuation is \$1,026,610, totaling \$1,180,600. Appellant-Assessor requests the land value remain at \$153,990, and the improvements' value be increased to \$1,131,569, totaling \$1,285,559.

This subject property is 0.101 acres improved with a two-story, 8,847 square foot retail/office building known as the Merwin Building. The building was constructed in 1902 with some remodeling in 1976 and 1997. It is located on the corner of First and Main in downtown Sandpoint.

Parcel No. RPS00000226065A

The BOE land value is \$196,020, and the improvements' valuation is \$857,547, totaling \$1,053,567. Appellant-Assessor requests the land value remain at \$196,020, and the improvements' value be increased to \$945,860, totaling \$1,141,880.

The subject property is 0.450 acres improved with a retail/office/warehouse building known as 2 Rock Plaza. The original improvements consisted of a 2,550 square foot office/warehouse remodeled in 1995. A newly constructed, three-story retail/office facility, consisting of 8,092 square feet, was later added on to the original building. This subject is located on the corner of Highway 2 and Olive Avenue in Sandpoint.

The Assessor asserted that the original assessed valuations of the above named parcels should be reinstated thereby reversing the decision of the Board of Equalization (BOE) which lowered the values. The Assessor contended the BOE values would compromise the uniformity

and equalization among similar neighboring properties.

The cases presented by Assessor were broken into three (3) main categories, property description, zoning and valuation. Exhibit A was submitted in reference to zoning, which indicated the permitted uses for a Commercial D Zone. This was the zone in which the subject properties are located.

Appellant then discussed the three (3) main methods of valuation, the first of which was the sales comparison approach. Appellant stated that in this analysis the value of property is determined by comparing the sale prices of other properties that are similar in both utility and characteristics. Exhibit B, a spreadsheet of 39 different sale properties, was submitted to support the Assessor's values for the subject parcels. These sale properties ranged in size from 2,570 to 38,550 square feet and in price per square foot from \$10.76 to \$401. The indicated capitalization rate for the sale properties ranged from 1.81% to 10.8%.

The next method discussed was the income capitalization approach in which the value of property is determined by converting any anticipated income, adjusted for vacancy and collection losses, into property value. The primary point of difference between the Assessor and the taxpayer in the BOE hearing was on vacancy and collection loss, and how best to estimate the amount in regards to the subject parcels. Vacancy and collection loss is an estimated percentage of the potential gross income. The percentage can vary based on the type and characteristics of the property involved, the level of income streams, the current project market supply, the local economic condition, capital improvements, leases and the tenant roll. In order to gather related information, a Commercial Appraisal Data form was mailed to all property owners throughout the revaluation area who had income producing properties. The form was sent to Respondent as well. Information was also gathered from realtors, property managers,

and investors. Based on this research the Assessor determined there was a 2% vacancy and collection loss rate for most retail and office space facilities and a 25% operating expense ratio. Respondent held 10% was a more accurate percentage for vacancy and collection loss among other considerations. Appellant asserted the 10% rate was a “textbook” figure and not applicable to the current market conditions in Sandpoint. However, the BOE agreed with Respondent and the valuations were subsequently changed accordingly.

The final method discussed was the cost approach. The Assessor stated this approach was less reliable and not typically used to establish market value. The exception being when there was an extreme lack of market sales activity, making the sales comparison approach impractical. The cost approach was said to be best considered on newer properties, which the Assessor noted none of the subject properties were.

To value the land, the Assessor used the sales comparison approach that considered several different sale properties located in the same immediate geographic area as subjects. Exhibit E was submitted by Appellant, which listed 32 sale properties to support the assessed land values. These properties ranged in size from 0.163 to 4.350 acres and in sale price from \$35,000 to \$1,800,000.

Copies of three (3) worksheets previously presented by taxpayer were resubmitted by Appellant to this Board with the following discrepancies noted. For subject parcel RPS024500C008A, the worksheet indicated the “purchase price” was \$700,000, when in actuality the property was purchased in August 2006 for \$993,800. The original assessed value of the property was \$984,210. For parcel no. RPS0131025015A, it is currently listed for sale at \$1,985,000, but the worksheet placed the “purchase price” at \$700,000. The original 2007 assessed value of this property was \$1,141,880. Finally, for subject parcel RPS00000226065,

Taxpayer's representative had stated to the Assessor that about \$928,000 was invested in this property. However, the listed "purchase price" on the worksheet was \$800,000. The original 2007 assessed value for this subject property was \$1,285,559.

Appellant reported new construction was continuing in the Sandpoint area with nearly full occupancy except in areas where rent exceeded the parameters set by the market.

Respondent's representative is a full-time Real Estate broker in Sandpoint, Idaho. He has specialized in commercial and property developments since 1986. The representative reported owning several commercial properties and most of his business is focused on buying and selling commercial property for clients. Therefore, he opined that he is familiar with the "real" operating costs of such property.

Taxpayer submitted three (3) worksheets for the properties in question. These worksheets were based on the assumption an investor wants to generate a return on investment. The worksheets (costs) were stated to be accurate for the buildings on appeal. They detailed operating expenses of the buildings which included: taxes, insurance, off-site management, repairs and maintenance, accounting and legal fees, leasing commissions, advertising/licenses/permits, and long-term capital replacements. The values arrived at were based on a 5% capitalization rate (return). From the worksheets it was determined that parcel nos. RPS024500C008BA and RPS0131025015AA had values of \$700,000. Parcel no. RPS00000226065A had an estimated value of \$800,000.

Taxpayer argued a 10% vacancy was more realistic than the 2% rate used by the Assessor. The factors that played into the 10% rate were stated to include credit loss, the length of time to re-rent property once a tenant vacates, the time it takes to do tenant improvements after a new tenant is found, and competition. Taxpayer reported each of the subject buildings

have had vacancies ranging from two (2) months to nine (9) months due to ongoing heavy competition in the area.

Finally, Respondent discussed the Assessor's 25% operating expense ratio. The Assessor said the rate was typical and included expenditures for management and replacement reserves, but excluded debt service and real estate commissions. Respondent asserted the 25% did not cover all costs and that capital replacements also needed to be considered in order to give a true representation.

Respondent agreed the worksheet values, though accurate, did not reflect the market value of comparable sales. Taxpayer consented if the values on the worksheet were to reflect market value they would go up, but not to the degree proposed by the Assessor.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Market value is primarily a factual question. In the current tax year, State law calls for the market value estimate to be as of January 1, 2007. Idaho Code § 63-205(1). Market value is defined for taxation purposes in § 63-201(10), I.C. Three recognized approaches to value are applicable to commercial property like subjects: the cost approach, the income approach and the sales comparison approach.

The subject properties were originally valued by the Assessor with consideration given to all three approaches to value. This Board found the appraisal effort and results demonstrated a relatively thorough consideration of subjects' current market values. The BOE modified the

values by adopting a larger (10%) vacancy factor. Mr. Gillham's local commercial property experience was relatively extensive as well. On the whole, the Board found his evidence or value cases were often generalized and heavy on assertions. Key figures were attested to without benefit of the source data being presented and discussed. The Board also had some trouble following the property owners' cases. On whole, the Assessor was found to have presented more balanced appraisals that gave due consideration to market sales and other comparables evidence.

The decision of the BOE enjoys a presumption of correctness on appeal. An Appellant, in this instance the Assessor, must show by a preponderance of the evidence that an error exists. Idaho Code §§ 63-511(4). We found the Assessor's consideration of vacancy and collection loss was proper and objectively arrived at. Taxpayers' 10% was not well supported in the record. The final values presented by Respondents' were found to bare an unreasonable relationship to available sales information. The Assessor's modeling was found in the end result to produce more reasonable value estimates for subjects.

The decisions of the Bonner County Board of Equalization will be reversed and the original assessed values reinstated.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decisions of the Bonner County Board of Equalization concerning the subject parcels be, and the same hereby are, REVERSED.

MAILED MAY 1, 2008